

Notice of Allowability

Application No.

09/963,693

Examiner

Sumesh Kaushal Ph.D.

Applicant(s)

RUVKUN ET AL.

Art Unit

1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/09/05.
2. ☒ The allowed claim(s) is/are 1,3 and 7.
3. ☒ The drawings filed on 25 September 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Karen Elbing on 07/25/05.

The application has been amended as follows:

IN THE CLAIMS

1. (currently amended) A method of diagnosing an impaired glucose tolerance condition, obesity, or a propensity thereto in a ~~patient~~ mammal, said method comprising analyzing the level of mammalian PTEN expression or activity in a sample isolated from said ~~patient~~ mammal, whereby an increase in said level of PTEN expression or activity relative to a control sample is an indication of an impaired glucose tolerance condition, obesity, or a propensity thereto.

2. (canceled)

3. (previously presented) The method of claim 1, wherein said level of PTEN expression or activity is analyzed by measuring PTEN lipid phosphatase activity.

4. (canceled)

5. (canceled)

6. (canceled)

7. (new) The method of claim 1, wherein the said mammal is a human.

IN THE SPECIFICATION

Page 1, line 7, insert now U.S. Patent No. 6,861,256, after "filed December 3, 1998,".

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claims 1, 3 and 7 are free of prior art of record. The prior art does not teach or suggest a method of diagnosing an impaired glucose tolerance condition, obesity or a propensity thereto in a patient by analyzing the level of PTEN expression or activity (PTEN lipid phosphatase activity) in a sample isolated from a patient, wherein an increase in the PTEN expression or activity relative to a control sample is indication of an impaired glucose tolerance condition, obesity or a propensity thereto.

The PTEN is a mammalian homolog of *C.elegans daf-18*, which modulates insulin-signaling pathway. The closest prior art made of record and not relied upon is considered pertinent to applicant's disclosure:- Ogg et al. *The C. elegans PTEN homolog, DAF-18, acts in the insulin receptor-like metabolic signaling pathway. Mol Cell. 2(6):887-893, 1998 (reference of record).*


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumesh Kaushal Ph.D. whose telephone number is 571-272-0769. The examiner can normally be reached on Mon-Fri. from 9AM-5PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Nguyen can be reached on 571-272-0731.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

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SUMESH KAUSHAL
PATENT EXAMINER